

Belgium Changes VAT Rules

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Belgium's official gazette on December 17 published a number of small topical laws, all dated December 6, that amend various VAT rules. These are the first of a number of tax laws that will be coming into force.

One VAT law increases the threshold of the VAT exemption for small businesses from €15,000 to €25,000, effective January 1, 2016. This law was enacted with the approval of the European Commission.

A second law changes the rules on the application of VAT, also with effect from January 1. In principle, VAT has always been chargeable when goods or services are supplied or when the supply is invoiced or paid. The provision that VAT became chargeable when a supply was invoiced was dropped in 2013, but this created more uncertainties than it resolved, particularly when an invoice was issued before the supply.

The new law reinstates the issuance of an invoice as a reason for charging VAT. For supplies of goods and services in business-to-business situations, VAT is chargeable upon the issuance of the invoice, even if it is issued before the supply of the goods or services. If an invoice has not been issued before the 15th of the month following the date of the supply of the goods or services, VAT becomes chargeable on that date. If a price is paid (in total or partially) before the supply that triggers the VAT charge, VAT will be chargeable on the date of payment.

The government has also introduced a cash-based regime for the supply of movable goods and services to public bodies, except for supplies where the VAT is reverse charged. This means that for any supply of goods or services to a public body, VAT becomes chargeable when (part of) the price is paid, and the VAT payer is not required to pay the VAT until he receives the payment. Consequently, the VAT payer does not have to pre-finance the VAT, which explains why this rule does not apply when the reverse charge mechanism applies.

Nothing changes in the cash-based regime for most business-to-consumer supplies of goods and services or for intra-community supplies.

A third law implements the judgment of the Court of Justice of the European Union in *Skandia America Corporation (C-7/13)*. (Reference for the case [📄](#).) This law abolishes article 19 *bis* of the Belgian VAT Code, which had introduced antiavoidance rules for VAT entities. It stated that "the supply of services other than those defined in Article 21(3), by a taxable person established outside Belgium for the purposes of one of his establishments which is a member of a VAT unit as defined in Article 4(2), in Belgium, shall also be treated as a supply of services for consideration."

The CJEU decided that a VAT group must be considered a single taxable person. Consequently, the supply of services by a head office outside the European Union to its branch located in the European

Union is subject to VAT if the branch is part of a VAT group.

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